

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Cherry Industries LLC,

Plaintiff,

Case No. 24-cv-12060

v.

Judith E. Levy  
United States District Judge

Brian Pangrle, *et al.*,

Mag. Judge Curtis Ivy, Jr.

Defendants.

\_\_\_\_\_/

**ORDER DENYING WITHOUT PREJUDICE AS MOOT  
DEFENDANTS' MOTION TO DISMISS [14]**

Plaintiff Cherry Industries, LLC, filed a complaint on August 7, 2024, against Defendants Silvia Marie Lazo and Brian Pangrle. (ECF No. 1.) On November 25, 2024, Defendants filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1), (2), and (6). (ECF No. 14.) Plaintiff then filed an amended complaint exactly twenty-one days later, on December 16, 2024. (ECF No. 16.)

Without expressing any view as to whether the amended complaint cures the purported deficiencies claimed in the motion to dismiss, the Court DENIES WITHOUT PREJUDICE AS MOOT Defendants' motion

to dismiss in light of the filing of the amended complaint. “[A]n amended complaint supersedes all prior complaints.” *Drake v. City of Detroit*, 266 Fed. App’x 444, 448 (6th Cir. 2008). “It follows that ‘motions directed at the superseded pleading,’” such as Defendants’ motion here, “generally are to be denied as moot.” *Nails v. RPI-Section 8 Housing*, No. 2:17-cv-13702, 2019 WL 1112381, at \*4 (E.D. Mich. Mar. 11, 2019) (quoting *Heard v. Strange*, 2:17-cv-13904, 2018 WL 4189652, at \*2 (E.D. Mich. June 21, 2018)) (collecting cases) *report and recommendation adopted*, 2018 WL 4184633 (E.D. Mich. Aug. 31, 2018); *see also Braden v. United States*, 817 F.3d 926, 930 (6th Cir. 2016) (“An amended pleading supersedes a former pleading if the amended pleading is complete in itself and does not refer to or adopt a former pleading.”) (internal quotation marks omitted).

Plaintiff filed its first amended complaint by right. Fed. R. Civ. P. 15(a)(1)(B) (a complaint may be amended as of right once within 21 days of the filing of a motion to dismiss). The first amended complaint is complete and makes no reference to the initial complaint. Accordingly, Defendants are directed to file a responsive pleading to the amended complaint within 30 days of this order.

IT IS SO ORDERED.

Dated: December 17, 2024  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on December 17, 2024.

s/William Barkholz  
WILLIAM BARKHOLZ  
Case Manager